

REMARKS

The Patent Office objected to claims 3-5, 13-15, and 23-29 because of incorrect numbering within these claims. Applicant has amended claims 3-5, 13-15, and 23-29 to correct these informalities.

Before discussing the rejections of the claims, it may be beneficial to discuss the present invention as related to the U.S. Patent No. 6,190,287 to Nashner. In general, the present invention provides a method of determining if training related to a particular skill is effective in increasing a person's performance. Nashner discloses determining if a particular training program is effective for a participant based on monitoring the participant's performance during training. In Nashner, the participant's performance during the program indicates the program's effectiveness (too easy, too hard, just right, or the participant did not understand instructions).

The decision is based on past performance or on performance of a similar group of people.

In contrast, Applicant's invention determines the effectiveness of the training program on an individual's ability to carry out a defined performance. For example, an individual may work in an office where the individual's primary task is to interview clients and fill out forms with each of the client's information. According to the present invention, the individual's performance in filling out the forms may be quantified. To improve the individual's performance, the individual may be sent to a typing class. After the typing class, the performance of the individual in filling out the forms is again quantified. Based on the performance of the individual in filling out forms before and after the typing class, a determination is made about whether or not the typing class will increase the individual's ability to fill out forms. Bringing Nashner into this typing class scenario, Nasher discloses determining the effectiveness of a typing class (too easy, too hard, just right, or the participant did not understand instructions), and the present invention determines the effectiveness of the typing class on an individual's ability to do her job.

The Patent Office rejected claims 1-30 under 35 U.S.C. §102 (e) as being anticipated by Nashner (U.S. Patent No. 6,190,287). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 UPPQ 2d 1051, 1053 (Fed. Cir. 1987).

Regarding claim 1, Nashner fails to disclose any of the claimed steps. Step (a) reads "quantifying a first actual performance metric of an individual carrying out *a defined performance* before an *event occurrence* bearing on an actual skill level of the individual." Nashner only discloses quantifying the performance of an individual carrying out a training program (event occurrence). Nashner does not disclose quantifying the performance of the individual carrying out a defined performance (ex. filling out forms) before an event occurrence (ex. typing class).

Step (b) reads "quantifying a second actual performance metric of the individual carrying out the defined performance after the event occurrence." Nashner only discloses quantifying the performance of an individual carrying out a training program (event occurrence). Nashner does not disclose quantifying the performance of the individual carrying out a defined performance (ex. filling out forms) after an event occurrence (ex. typing class).

Step (c) reads "determining a result of the event occurrence on an ability of the individual to carry out the defined performance based on the first and second actual performance metrics." Nashner discloses determining the effectiveness of the training program for the individual based on information gathered while the individual is performing the training program and information gathered during the individual's previous training. Nasher does not disclose determining a result of the training program (ex. typing class) on the ability of the individual to carry out a defined performance (ex. filling out forms).

Since Nashner fails to expressly or inherently disclose any of the steps of claim 1, claim 1 is allowable.

For at least the same reasons, claims 2-30 are also allowable.

In view of the discussions above, claims 1-30 are allowable. Reconsideration is respectfully requested. If any issues remain, the examiner is encouraged to contact the undersigned attorney of record to expedite allowance and issue.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By:

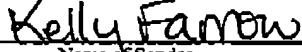


Benjamin S. Withrow
Registration No. 40,876
P.O. Box 1287
Cary, NC 27512
Telephone: (919) 654-4520

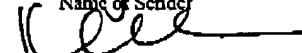
Date: November 19, 2003
Attorney Docket: 1004-001

CERTIFICATE OF TRANSMISSION
I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING
TRANSMITTED VIA FACSIMILE ON THE DATE INDICATED
BELOW, AND IS ADDRESSED TO:

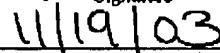
Examiner: Catherine M Colon Art Unit: 3623 Fax: 703-872-9327



Name of Scandee



Signature



Date of Transmission